D.B. SPECIAL APPEAL (W) NO.543/2007
State of Rajasthan Vs. Shri Mali Ram & Ors.

Date : 21.5.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. L.R. Upadhyay, Dy. Government Advocate.

Having heard learned counsel for the appellant we do not find any merit in this appeal.

The respondent, who was appointed as cleaner in the Rajasthan Ground Water Department on 22nd March, 2080, had raised an industrial dispute about non-consideration of his case for promotion to the post of clerk for which he was eligible, while person junior to him had been considered and promoted. He has given specific instance of those persons who were appointed after him in service and selected for promotion to the post of L.D.C. He also urged that he was only the person to be considered for promotion against the quota reserved for scheduled caste of which he was a member.

The Labour Court vide its award dated 16th March, 2005 found in favour of the respondent that person junior to him, who was appointed as clerk in 1981 had been promoted as clerk earlier than him by describing him as a Cleaner-cum-Chowkidar, when there is no such post as a Cleaner-cum-Chowkidar in the Ground Water Department. It was admitted case that another person, who was also junior to the petitioner had been promoted to the post of clerk in pursuance to the directions of the Court on like ground. It was also found in favour of the respondent that he being a member of scheduled caste, at the relevant time ought to have been considered and promoted against the post of L.D.C. which was first roaster point post against the post reserved for scheduled caste.

With these findings, the respondent was directed to be promoted w.e.f. 4.1.1989 the date on which person junior to him namely Ramjeevan was promoted with all consequential benefit except the actual emoluments of the post from the date he is promoted until the date he is actually promoted.

The award was challenged by way of writ petition before this Court and learned Single Judge has dismissed the writ petition agreeing with the award considering the finding recorded by the learned Labour Court to be findings of fact.

In view of the clear finding of the Labour Court that person junior to the respondent had been promoted to the post of Lower Division Clerk on 4.1.1989 and there was no reason for denying him the benefit on 4.1.1989, we are in agreement with the learned Single that no interference is called for in the award of learned Labour Court.

The appeal is therefore, dismissed.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

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